



REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
BUREAU OF INTERNAL REVENUE  
Quezon City

November 12, 2014

**CONGRESSIONAL OVERSIGHT COMMITTEE  
ON THE COMPREHENSIVE TAX REFORM PROGRAM**  
Senate of the Philippines  
GSIS Bldg., Pasay City

**ATTN: MS. BERNADINE N. MAHINAY**  
*Legislative Committee Secretary*

Dear Ms. Mahinay,

This is in compliance with the commitments of the Bureau of Internal Revenue (BIR) to the Committee during the Hearing on October 22, 2014.

**I. Questions Raised in the Presentation of Senator Vicente C. Sotto III**

On the presentation of Sen. Sotto regarding Importation Trends and Import Pricing of raw materials for the production of tobacco products, we answer the questions raised, as follows:

**Issue 1: Importation of Raw Materials by Tobacco Manufacturers under Warehousing Entries**

Q1: Is Associated Anglo-American Tobacco Corporation mostly engaged in Exports or Domestic production?

A: Yes. Based on our records, Associated Anglo-American Tobacco Corporation is engaged in both export and domestic production.

Q2: Ranking of Market share of Cigarette Manufacturers.

A:

Ranking of Market Share of Cigarette Manufacturers	
1	PMFTC, Inc.
2	Mighty Corporation
3	Associated Anglo-American Tobacco Corporation
4	La Suerte Cigar and Cigarette Factory

Q3: Is Mighty Corporation only engaged in export of cigarettes and did not have any domestic production prior to 2013?

A: No. Based on our records, Mighty Corporation is engaged in production of cigarette both for export and domestic sales.

Q4: Did Mighty Corporation's export exponentially grow in 2013?

A: Yes. Mighty Corporation's export of cutrags grew by 1764% from 2011 to 2012; and by 22.89% from 2012 to 2013.

*Comments on the COCCTRP Presentation of STSRO Data by Sen. Vicente Sotto III*  
 Page 2 of 4

- Q5: From the period 2005 to 2012, is Mighty Corporation only importing Acetate Tow under warehousing or for export?  
 A: Mighty has also been importing acetate tow through consumption entries.
- Q6: Can the BIR confirm whether Mighty Corporation declared any withdrawals (from warehouses) for domestic consumption?  
 A: We cannot confirm the same because the BIR does not have jurisdiction over customs bonded warehouses.
- Q7: Based on your (BIR) report, all local manufacturers, including Mighty Corp., declared Excise Tax payments for domestic products right?  
 A: Yes.
- Q8: If they only reported a minimal amount (200,000kgs) of imported Acetate Tow under Consumption, how did they produce 688 million packs if they didn't have sufficient Acetate Tow for domestic production? (200,000 kgs is only equivalent to 22 million packs).  
 A: Based on 2013 BIR records, Mighty Corp has imported substantially more than 200,000 kgs.
- Q9: Considering that this practice has been happening since 2005, has the BIR checked if the company has been truthful in their reporting?  
 A: The BIR regularly conducts audit whether or not there are issues/allegations of misdeclarations/underdeclarations involving a taxpayer.
- Q10: How will you address this issue going forward?  
 A: The Bureau employs various measures or enforcement actions to address all misdeclarations/underdeclarations issues.

**Issue 2: Undervaluation of Import Price for Tobacco Leaf and Acetate Tow**

- Q1: In cases of underdeclaration, how does the BIR (along with the National Tobacco Administration [NTA] and Bureau of Customs[BOC]) remedy the same? Is there information sharing between the NTA, BOC and BIR in these cases?  
 A: The BIR regularly secures access to information from the NTA and BOC.
- Q2: Based on the Suppliers Confirmation Letters submitted to the STSRO, can the BIR look into the importations of Mighty Corporation if a scheme of undervaluation is being applied to all their importations?  
 A: Yes, if BIR will be provided with the information.

**II. Validation of the Data Presented by Sen. Sotto on Imported Leaf Tobacco and Acetate Tow**

To validate the data presented by the STSRO, the BIR used data from the four tobacco products manufacturer mentioned in the presentation of Sen. Sotto, namely PMFTC, Inc., Mighty Corporation, Associated Anglo-American Tobacco Corporation and La Suerte Cigar and Cigarette

*Comments on the COCCTRP Presentation of STSRO Data by Sen. Vicente Sotto III*  
 Page 3 of 4

Factory. The data culled from the Official Register Books (ORBs) submitted by the tobacco companies are presented in compliance with the unlawful divulgence provision in Section 270 of the National Internal Revenue Code of 1997, as amended. The data for 2010 was no longer used as discrepancies may arise attributable to the incorporation of PMFTC, Inc., a company created through an agreement between Philip Morris Philippines Manufacturing Inc. (PMPMI) and Fortune Tobacco Company (FTC). The Bureau's data is also limited to Consumption Entries as it does not regulate Transshipment and Warehousing which is under the BOC's jurisdiction.

With regard the data on importation of leaf tobacco and acetate tow, variance in the data of the STSRO and the BIR exists.

From 2011 to 2013, PMFTC, Inc., Mighty Corporation, Associated Anglo-American Tobacco Corporation and La Suerte Cigar and Cigarette Factory, imported leaf tobacco in the following volumes:

**Table 1. Total Consumption Entries of Leaf Tobacco of the Four Tobacco Products Manufacturers**  
 (In Million Kilograms)

	2011	2012	2013
Per STSRO	29.45	26.1	32.37
Per BIR	60.46	52.11	71.75
Variance	31.01	26.01	39.38
% of Variance	105.31%	99.65%	121.65%

For Leaf Tobacco, there is a variance between the STSRO and BIR data of 105.31% in 2011, 99.65% in 2012 and 121.65% for 2013.

The four manufacturers of tobacco products also imported Acetate Tow in the following volumes:

**Table 2. Total Consumption Entries of Acetate Tow of the Four Tobacco Products Manufacturers**  
 (In Million Kilograms)

	2011	2012	2013
Per STSRO	10.23	10.05	12.05
Per BIR	10.59	12.72	12.81
Variance	.36	2.67	0.76
% of Variance	3.51%	26.53%	6.34%

For Acetate Tow, while there is a slight difference, the variance between the STSRO and BIR data of 3.51% for 2011, 26.53% in 2012 and 6.34% for 2013.

### III. Clarification on the Usage of Imported Leaf Tobacco and Acetate Tow

The volume of importations that were extracted from consumption entries accounted for an average of 75.95% for the period of 2011 to 2013 of the total leaf tobacco used for the manufacture of cigarettes and other tobacco products.

*V*